

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALEXANDER PROPERTIES GROUP, INC.)	
D/B/A LEGACY FARM TOWNHOMES AND)	
CURT MANN AND ANDY ALEXANDER)	
INDIVIDUALLY AND AS OFFICERS OF)	
THE CORPORATION)	
_____)	CASE NO. 2004-00058
)	
VIOLATIONS OF PIPELINE SAFETY)	
STANDARDS KRS 278.992(1))	

O R D E R

Alexander Properties Group, Inc. ("Alexander Properties") operates an apartment complex known as Legacy Farm Townhomes ("Legacy Farm") in Lexington, Kentucky and is a master meter system operator that receives natural gas from the Columbia Gas of Kentucky ("Columbia") system. Alexander Properties then redistributes the gas to its Legacy Farm apartments through a network of its steel and plastic pipelines.

Alexander Properties, as a master meter operator, is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.495. Alexander Properties, Curt Mann, as President of Alexander Properties, and Andy Alexander, as Chairman of Alexander Properties, are also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws and regulations, 49 U.S.C. § 60101, *et seq.*; 49 CFR Parts 189-199.

On March 26, 2004, the Commission established this case and directed Alexander Properties, Curt Mann, and Andy Alexander to show cause why they should

not be subject to the penalties of KRS 278.992(1) for alleged violations of pipeline safety laws. This action followed our receipt of a report of Commission Staff's comprehensive inspection of the Legacy Farm complex on January 16, 2004.

In its Comprehensive Inspection Report, Commission Staff noted five violations at the Legacy Farm complex that were similar to those violations found in Case No. 2000-00534¹ and for which the Commission had assessed Alexander Properties a \$100,000 civil penalty. The Commission suspended \$95,000 of that penalty on the condition that Alexander Properties comply with the pipeline safety laws and regulations at issue.

Alexander Properties and Commission Staff have executed a Settlement Agreement, appended hereto, that resolves all outstanding issues of this proceeding, and they request Commission approval of this agreement. In reviewing the Settlement Agreement, the Commission has considered, inter alia, the circumstances surrounding the violations, Alexander Properties' efforts to comply with the Commission's safety regulations, its willingness to improve and enhance its existing safety programs and operations, and the steps it has undertaken to improve its natural gas pipeline system.

The Commission finds that Alexander Properties has entered into an agreement with Columbia for the installation of gas pipe, service lines, meters and regulators to enable Columbia to provide gas service to its Legacy Farm tenants. Alexander Properties assumes the cost of these facilities and their installation. Once these pipes, service lines, meters, and regulators have been installed, Columbia will directly serve

¹ Case No 2000-00534, Alexander Properties Townhomes: Alleged Violations of Administrative Regulation (Ky. PSC April 19, 2001).

Legacy Farm tenants and Alexander Properties will cease to be a master meter operator subject to regulation by the Commission. We further find that, once Columbia operates the gas system, the system will be operated by an experienced local distribution system operator with greater expertise than Alexander Properties. Alexander Properties represents to the Commission that it will continue to perform leak detection and valve inspection surveys and patrol the gas system until the transfer to Columbia is completed.

Based upon these representations and the conditions set forth in the Settlement Agreement, we find that that portion of the penalty suspended in Case No. 2000-00534 should remain suspended through October 1, 2005. If, prior to October 1, 2005, Alexander Properties provides to the Commission written confirmation from Columbia that Columbia has commenced gas service to the tenants of Legacy Farm, then the suspended portion of the penalty shall be vacated.

The Commission further finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The terms and conditions set forth in the Settlement Agreement are approved.
2. The terms and conditions of the Settlement Agreement are incorporated into this Order as if fully set forth herein.
3. Curt Mann, as President of Alexander Properties, and Andy Alexander, as Chairman of Alexander Properties, are dismissed as parties in this case.

4. Alexander Properties is assessed a civil penalty of \$5,000 payable within 30 days from the date of this Order. This payment shall be in the form of a cashier's check made payable to the Kentucky State Treasurer and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

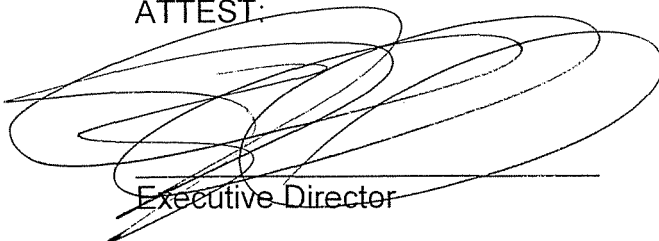
5. That portion of the penalty assessed in Case No. 2000-534 and declared suspended remains suspended, subject to the provisions of the Settlement Agreement approved in this proceeding.

6. This case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 28th day of February, 2005.

By the Commission

ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00058 DATED February 28, 2005.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
JAN 19 2005
PUBLIC SERVICE
COMMISSION

In the Matter of:

ALEXANDER PROPERTIES GROUP,)
INC. AND CURT MANN AND)
ANDY ALEXANDER INDIVIDUALLY)
AND AS OFFICERS OF THE)
CORPORATION,)
_____))
VIOLATIONS OF PIPELINE SAFETY)
STANDARDS KRS 278.992(1))

CASE NO. 2004-00058

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this December 1, 2004, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and ALEXANDER PROPERTIES GROUP, INC. ("Alexander Properties") d/b/a Legacy Farm Townhomes ("Legacy Farm") and Curt Mann and Andy Alexander, individually and as officers of the corporation.

WITNESSETH:

WHEREAS, Alexander Properties, a Georgia corporation, authorized to do business in Kentucky, does business as and operates Legacy Farm, an apartment complex in Lexington, Kentucky; and

WHEREAS, Alexander Properties is a master meter system operator that receives natural gas from Columbia Gas of Kentucky, Inc. ("Columbia Gas") and then redistributes its gas to 152 apartments through a network of steel and plastic pipelines; and

WHEREAS, Alexander Properties, as a master meter operator, is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495, and is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199; and

WHEREAS, on March 26, 2004, the Public Service Commission entered an Order establishing this case and directing Alexander Properties and Curt Mann and Andy Alexander, individually and as officers of the corporation, to show cause why they should not be subject to the penalties of KRS 278.992(1) relating to the violations described in the Comprehensive Inspection Report dated March 16, 2004; and

WHEREAS, Alexander Properties was also directed to show cause why it should not be subject to revocation of the suspended penalties in Case No. 2000-00534; and

WHEREAS, Alexander Properties filed a response and requested an informal conference with Commission Staff; and

WHEREAS, Alexander Properties and Commission Staff have held two informal conferences to discuss the issues and settlement proposals; and

WHEREAS, Alexander Properties has entered into a agreement with Columbia Gas to install all plant necessary to serve its tenants as customers of Columbia Gas; and

WHEREAS, the effect of the construction and service by Columbia Gas will be to discontinue Alexander Properties as a master meter operator; and

WHEREAS, Alexander Properties and Commission Staff desire to settle all issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle the pending case.

NOW, THEREFORE, it is hereby agreed that:

1. There are no further facts to be submitted to the Commission concerning the violations cited herein, and Alexander Properties has waived its right to a public hearing on said violations.

2. Curt Mann and Andy Alexander, in their individual capacities, are to be dismissed as parties in this case.

3. Alexander Properties agrees to pay a civil penalty of \$2,500 for each violation described below, a total of \$5,000.

a. A violation of 49 CFR 192.615 in that Alexander Properties' Emergency Plan for its Legacy Farm property was not available to personnel in the event of an emergency.

b. A violation of 49 CFR 192.603 and 605 in that Alexander Properties did not have documents on its Legacy Farm property to indicate annual leakage surveys (subpart M, 192.723), corrosion inspections (subpart I), patrolling (subpart M, 192.721), and valve maintenance (subpart M, 192.749) had been performed in 2003.

4. Alexander Properties agrees to pay the sum of \$5,000 by cashier's check payable to the Kentucky State Treasurer, within 30 days from the entry of an Order by the Public service commission approving this Settlement Agreement. Failure to pay the penalty when due shall constitute a violation of the terms of the suspended penalty and shall render the suspended penalty in the amount of \$95,000 due and payable.

5. Alexander Properties and Commission Staff agree that the violations set forth in 3(a) and (b) above constitute a breach of the terms of the suspension of the \$95,000 penalty assessed in Case No. 2000-00534.

6. Alexander Properties and Commission Staff agree that suspension of the penalty should not be revoked by the Commission based upon the following:

a. The filing by Alexander Properties of documents representing its agreement with Columbia Gas whereby Alexander Properties has paid an amount in aid of construction for the installation of gas pipe, service lines, meters and regulators to enable Columbia Gas to provide gas service to its Legacy Farm tenants.

b. Alexander Properties certifies to the Commission that it will continue to perform its leak detection and value inspection surveys, and patrol its gas system until the transfer to Columbia Gas is completed.

c. Alexander Properties contracted with Gerald Powell for technical assistance in its safety program and in records maintenance.

d. The agreement with Columbia Gas provides that the gas system will be operated by an experienced local distribution system operator with more expertise and stability of personnel than could be provided by Alexander Properties.

6. Once the pipes, service lines, meters, and regulators have been installed and service is provided by Columbia Gas, Alexander Properties will no longer be a master meter operator subject to regulation by the Public Service Commission.

7. Based upon the representations contained in paragraphs 4,5,6,7 and 8 herein, Alexander Properties and Commission Staff agree that suspension of the \$95,000 penalty be continued through October 1, 2005. If, prior to October 1, 2005,

Alexander Properties provides to the Commission written confirmation from Columbia Gas that Columbia Gas has commenced gas service to the tenants of Legacy Farm, then the entire \$95,000 penalty shall be forgiven.

8. This Settlement Agreement is subject to the approval of the Public Service Commission.

9. If the Public Service Commission fails to adopt this agreement in its entirety, Alexander Properties reserves the right to withdraw from it and to proceed to a hearing. In such event, none of the matters contained in this settlement shall be binding on any of the parties.

10. If the settlement is adopted in its entirety by the Public Service Commission, this Settlement Agreement shall constitute a final adjudication of the show cause proceeding without additional hearing.

11. If the Settlement Agreement is accepted by the Public Service Commission, the parties agree not to request rehearing or to file an appeal of the Order to the Franklin Circuit Court.

Alexander Properties Group, Inc.

By: _____

Title: _____

James R. Goff, Staff Attorney
Kentucky Public Service Commission